

1 NATIONAL CAPITOL CONTRACTING
2 RPTS DAVIES
3 HJU132000

4 H.R. 5063, THE "STOP SETTLEMENT
5 SLUSH FUNDS ACT OF 2016"
6 Wednesday, May 11, 2016
7 House of Representatives,
8 Committee on the Judiciary,
9 Washington, D.C.

10 The committee met, pursuant to call, at 10:15 a.m., in
11 Room 2141, Rayburn House Office Building, Hon. Bob
12 Goodlatte, [chairman of the committee] presiding.

13 Present: Representatives Goodlatte, Sensenbrenner,
14 Smith, Chabot, Issa, Forbes, Franks, Gohmert, Jordan, Poe,
15 Chaffetz, Marino, Labrador, Collins, DeSantis, Walters,
16 Buck, Ratcliffe, Trott, Bishop, Conyers, Nadler, Jackson
17 Lee, Cohen, Johnson, Pierluisi, Chu, Bass, DelBene,
18 Jeffries, Cicilline, and Peters.

19 Staff Present: Shelley Husband, Staff Director; Branden
20 Ritchie, Deputy Staff Director/Chief Counsel; Zachary
21 Somers, Parliamentarian & General Counsel; Alley Adcock,

22 Clerk; Daniel Huff, Counsel, Subcommittee on Regulatory
23 Reform, Commercial and Antitrust Law; John Manning,
24 Professional Staff Member; Jason Cervenak, Counsel,
25 Subcommittee on Crime, Terrorism, Homeland Security and
26 Investigations; Minority Chief Counsel, Chief of Staff,
27 Staff Director; Danielle Brown, Minority Parliamentarian and
28 Chief Legislative Counsel; Arron Hiller, Minority Chief
29 Oversight Counsel; Joe Graupensperger, Minority Chief
30 Counsel, Subcommittee on Crime, Terrorism, Homeland Security
31 and Investigations; and Veronica Eligan, Minority
32 Professional Staff.

33 Chairman Goodlatte. Good morning. The Judiciary
34 Committee will come to order, and without objection, the chair
35 is authorized to declare a recess of the committee at any time.
36 Pursuant to notice, I now call up H.R. 5063 for purposes of
37 markup and move that the committee report the bill favorably
38 to the House. The clerk will report the bill.

39 Ms. Adcock. H.R. 5063, to limit donations made, pursuant
40 to settlement agreements to which the United States is a party,
41 and for other purposes.

42 [The bill follows:]

43 ***** INSERT 1 *****

44 Chairman Goodlatte. Without objection, the bill is
45 considered as read and open for amendment at any point, and I
46 will begin by recognizing myself for an opening statement.

47 Eighteen months ago, this committee commenced a pattern
48 or practice investigation into the Justice Department's
49 mortgage lending settlements. We found that the Department of
50 Justice is systematically subverting Congress' spending power
51 by requiring settling parties to donate money to activist
52 groups. In just the last 2 years, the Department of Justice
53 has directed nearly a billion dollars to third parties entirely
54 outside of Congress' spending and oversight authority.

55 Of that, over half a billion has already been dispersed
56 or is committed to being dispersed. In some cases, these
57 mandatory donation provisions reinstate funding Congress
58 specifically cut. The spending power is Congress' most
59 effective tool in reining in the Executive Branch. This is
60 true no matter which party is in the White House. A Democrat
61 led Congress passed the Cooper Church Amendment to end the
62 Vietnam War. More recently, bipartisan funding restrictions
63 blocked lavish salary and conference spending by federal
64 agencies and grantees.

65 This policy control is lost if the executive gains
66 authority over spending. Serious people on both sides of the
67 aisle understand this. A former deputy assistant attorney
68 general for the Office of Legal Counsel in the Clinton

69 Administration warned in 2009 that the Department of Justice
70 has the ability to use settlements to circumvent the
71 appropriations authority of Congress.

72 In 2008, a top Republican DOJ official restricted
73 mandatory donation provisions because, "They can create actual
74 or perceived conflicts of interest and/or other ethical
75 issues." Any objections to this bill would be unfounded.

76 Whether the beneficiaries of these donations are worthy
77 entities is entirely beside the point. The Constitution grants
78 Congress the power to decide how money is spent, not the
79 Department of Justice. This is not some esoteric point. It
80 goes to the heart of the separation of powers theory and
81 Congress' ability to reign in the executive in practice. Nor
82 does the bill restrict prosecutorial discretion.

83 That discretion pertains to the decision to prosecute.
84 Setting penalties and remedial policy is the proper purview of
85 Congress. Opponents' central concern is that there may be
86 cases of generalized harm to communities that cannot be
87 addressed by restitution.

88 But this misses the fundamental point. The Department of
89 Justice has authority to obtain redress for victims. Federal
90 law defines victims to be those directly and proximately harmed
91 by a defendant's acts. Once those victims have been
92 compensated, deciding what to do with additional funds
93 extracted from defendants becomes a policy question, properly

94 decided by elected representatives in Congress, not agency
95 bureaucrats or prosecutors. It is not that Department of
96 Justice officials are necessarily funding bad projects. It is
97 that, outside of compensating actual victims, it is not their
98 decision to make.

99 Rather than suspend the practice of mandatory donations
100 in response to these concerns, the Department of Justice has
101 doubled down. Just last month, a major DOJ bank settlement
102 required \$240 million in financing and/or donations toward
103 affordable housing. It is time for Congress to end this abuse.

104 The Stop Settlement Slush Funds Act of 2016 bars mandatory
105 donation terms in DOJ settlements. It is a bipartisan bill.
106 It makes clear that payments to provide restitution for actual
107 harm directly caused are permitted. It explicitly references
108 the environmental context, where the injury to the environment
109 may be diffuse and there may be no identifiable victims.

110 The bill deals with this by explicitly permitting
111 payments to remediate environmental damage. If direct
112 remediation of the harm is impossible or impractical, the
113 violator is not let off the hook. The full penalty is paid,
114 but into the Treasury. This bill addresses an institutional
115 issue. That is one reason similar language passed the House
116 last year by a voice vote. I thank all the bill's cosponsors,
117 and I urge it to passage.

118 And it is now my pleasure to recognize the ranking member

119 of the committee, the gentleman from Michigan, Mr. Conyers,
120 for his opening statement.

121 [The statement of Chairman Goodlatte follows:]

122 ***** COMMITTEE INSERT *****

123 Mr. Conyers. Thank you, Chairman Goodlatte. Members of
124 the Judiciary Committee, the Stop Settlement Slush Funds Act
125 would prohibit the enforcement or negotiation of any
126 settlement agreement requiring donations to remediate harms
127 that are not directly and proximately caused by a party's
128 unlawful conduct. The proponents of the bill claim that the
129 Justice Department and civil enforcement agencies use such
130 settlement agreements to unlawfully augment their own budgets
131 as an in-run around the congressional appropriation process.

132 So, here is why I am not in support of the bill. To begin
133 with, these types of settlement agreements have been
134 successfully used to remedy various harms caused by reckless
135 corporate actors.

136 For example, they have been utilized to facilitate an
137 effective response to the predatory and fraudulent mortgage
138 lending activities that nearly caused our economic collapse
139 nationally. Settlement agreements with two of these culpable
140 financial institutions: Bank of America and Citigroup required
141 a donation of less than one percent of the overall settlement
142 amount to help affected consumers.

143 I cannot agree with the claim the Justice Department has
144 used these settlement agreements as a vehicle for funding
145 activist groups. Notwithstanding the production of hundreds
146 of pages of documents by the Justice Department, along with
147 hundreds of pages of documents produced by private parties, we

148 have not seen any evidence that the government included
149 unlawful or politically-motivated terms in its settlement
150 agreements with Bank of America or Citigroup.

151 It has also been asserted that the Justice Department and
152 other agencies have augmented their appropriations through
153 these settlement agreements. But existing law already
154 prevents agencies from augmenting their own funds through
155 civil enforcement. The law is already there. And these laws
156 require that donations and settlement agreements have a clear
157 nexus to the prosecutorial objectives of the enforcement
158 agency.

159 And both the Government Accountability Office and the
160 Congressional Research Service conclude that settlement
161 agreements providing for secondary remediation do not violate
162 Congress' constitutional power of the purse. And finally, I
163 am also concerned that H.R. 5063 would have harmful
164 consequences on the remediation of systemic harms in civil
165 enforcement actions. Settlement agreements allow parties to
166 resolve the civil liability by voluntarily remediating the
167 harms caused by unlawful conduct.

168 For some unlawful conduct, such as discrimination based
169 on race or religion, secondary remediation of harms may be the
170 only remedy available for system violations of the law. These
171 lawsuits typically affect the interests of individuals who are
172 not themselves parties to an action. Secondary remediation,

173 in these cases, serves as an important tool to protect victims
174 of discrimination through voluntary compliance and training
175 programs.

176 And so, my friends, this is why, given these concerns
177 presented in the bill, I am accordingly forced to oppose H.R.
178 5063 and urge you to vote along with me. I thank the chairman.

179 [The statement of Mr. Conyers follows:]

180 ***** COMMITTEE INSERT *****

181 Chairman Goodlatte. The chair thanks the gentleman, and
182 without objection, all the members' opening statements will be
183 made a part of the record.

184 [The information follows:]

185 ***** COMMITTEE INSERT *****

186 Chairman Goodlatte. I now recognize myself for purposes
187 of offering an amendment in the nature of a substitute, and
188 the clerk will report the amendment.

189 Ms. Adcock. Amendment in the nature of a substitute to
190 H.R. 5063, offered by Mr. Goodlatte of Virginia. Strike all
191 that follows.

192 [The amendment of Chairman Goodlatte follows:]

193 ***** INSERT 2 *****

194 Chairman Goodlatte. Without objection, the amendment in
195 the nature of a substitute is considered as read, and I will
196 recognize myself to explain the amendment.

197 On April 28, 2016, the Sub-Committee on Regulatory
198 Reform, Commercial, and Anti-Trust law held a productive
199 hearing H.R. 5063, the Stop Settlement Slush Funds Act of 2016.
200 This substitute amendment refines and improves H.R. 5063 based
201 on the expert feedback received at that hearing.

202 The amendment rearranges some language, but ultimately
203 makes just three principal changes: it adds a provision making
204 clear that this bill applies prospectively only. Thus, it
205 does not disrupt any existing settlements. Second, the
206 amendment prevents DOJ from pressuring defendants to make
207 donations, even without actually requiring them.

208 For example, the J.P. Morgan settlement offered credit
209 for, but did not require, donations. The amendment
210 accomplishes this by replacing the term "requiring" with
211 "directing" or "providing for." Third, the amendment
212 substitutes the term "payment" for "donation," to prevent DOJ
213 from circumventing the ban by re-characterizing the payment.
214 DOJ has already begun to do that by requiring defendants in
215 settlements to spend a sum of money working with a third party,
216 rather than using the term "donate."

217 The amendment is careful to exempt unobjectionable
218 payments for administrative services rendered in connection

219 with the case -- for example, paying a settlement monitor. As
220 in the underlying bill, payments to provide restitution for or
221 to remedy actual harm are explicitly permitted. The amendment
222 furthers the bill's underlying principle that spending policy
223 decisions should be left to Congress by clarifying that such
224 permitted payments must directly remedy the actual harm.

225 In short, this amendment strengthens the bill, and I urge
226 my colleagues to support. And I now recognize the gentleman
227 from Michigan, Mr. Conyers for 5 minutes.

228 Mr. Conyers. Thank you, Mr. Chairman. Members of the
229 committee, this Goodlatte amendment in the nature of a
230 substitute clarifies that H.R. 5063 only applies to settlement
231 agreements concluded on or after the enactment of the bill,
232 and includes an exception for third-party payments, for
233 services rendered in connection with the case.

234 This amendment in the nature of a substitute makes several
235 positive changes to H.R. 5063, such as clarifying that the
236 bill only applies prospectively to settlement agreements
237 consummated after enactment of this bill. As introduced, 5063
238 would apply retroactively to the enforcement of existing
239 settlement agreements, potentially preventing the enforcement
240 of an untold number of settlements involving third-party
241 payments.

242 The manager's amendment also includes an exception for
243 payments for services rendered in connection with the case,

244 which appeared to allow third-party payments for attorney fees
245 and other fees associated with bringing a civil complaint.
246 Notwithstanding these improvements to the bill, which I
247 reluctantly admit, this amendment does not address the
248 overarching concerns with H.R. 5063 that I expressed in my
249 opening statement.

250 Furthermore, this amendment does not resolve the material
251 vagueness of the underlying bill. During the legislative
252 hearings on 5063, both majority and minority witnesses
253 expressed concerns that the bill did not adequately define key
254 terms.

255 Professor David Uhlmann observed that the bill does not
256 make clear that it does not impose limitations on long-standing
257 programs that address generalized harm, while noting that
258 courts interpreting the legislation could conclude that it
259 precludes third-party payments as part of civil settlement
260 agreements, other than restitution, even in cases of
261 generalized harm to the environment or consumers.
262 Additionally, Professor Paul Figley, a majority witness,
263 expressed concerns that due to vague drafting, the bill may
264 not achieve its goals.

265 The legislative hearing on 5063 occurred less than five
266 legislative days ago. The record is still open, which means
267 that we have not had an opportunity to ask additional questions
268 raised by both majority and minority witnesses during the

269 hearing. Since that hearing, however, we have heard additional
270 concerns from Professor Uhlmann that this amendment addresses,
271 quote, "Addresses none of the problems with the bill," end
272 quotation, and raises, quote again, "Raises a whole host of
273 questions about what payments are covered, fails to define
274 harm in a meaningful way, includes problematic causation
275 language, and targets civil settlements for no principal
276 reason," end quotation.

277 With these concerns in mind, I must restate my opposition
278 to this misguided legislation, and I yield back the balance of
279 my time and thank the chairman.

280 Chairman Goodlatte. Are there any amendments to the
281 amendment?

282 Mr. Conyers. Yes, sir.

283 Chairman Goodlatte. For what purpose does the gentleman
284 from Michigan seek recognition?

285 Mr. Conyers. Yes, sir. I have an amendment at the desk.

286 Chairman Goodlatte. The clerk will report the amendment.

287 Ms. Adcock. Amendment to the amendment in the nature of
288 a substitute to H.R. 5063 offered by Mr. Conyers. Page 1,
289 Line --

290 [The amendment of Mr. Conyers follows:]

291 ***** INSERT 3 *****

292 Chairman Goodlatte. Without objection, the amendment is
293 considered as read and the gentleman is recognized for 5
294 minutes on his amendment.

295 Mr. Conyers. Thank you, Mr. Chairman. My amendment would
296 exempt from the legislation settlement agreements that provide
297 payments to third parties as general relief for violation of
298 the title VII of the Civil Rights Act of 1964. Title VII, you
299 will recall, prohibits discrimination in employment on the
300 basis of race, color, sex, religion, or national origin.

301 Plaintiffs in employment discrimination cases typically
302 seek payment and other relief for economic loss resulting from
303 unlawful employer conduct. These cases often involve multiple
304 victims subject to the same widespread discriminatory
305 employment practice or policy that violated the Civil Rights
306 Act in the first place. And they also tend to affect the
307 interests of persons who are not parties to the civil action,
308 or who are otherwise unlikely to receive compensation for
309 unlawful conduct.

310 Given the often systemic nature of discriminatory
311 conduct, settlement agreements should be able to provide for
312 general relief for non-identifiable victims through such means
313 as requiring payments to address generalized harm or to prevent
314 future discriminatory acts. Examples include workplace
315 monitoring and training programs.

316 Nevertheless, H.R. 5063 would prohibit these types of

317 payment remedies unless they provide restitution for actual
318 harm directly and proximately caused by the party making the
319 payment. At last month's hearing on the bill, the University
320 of Michigan Law School Professor David Uhlmann testified that
321 this requirement would potentially preclude, quote, "all
322 third-party payments in settlement agreements other than
323 restitution to identifiable victims," end quotation.

324 The majority's own witness, our former colleague, Dan
325 Lungren, who previously served as California State Attorney
326 General, concurred. He observed that the bill prohibits the
327 United States Government from entering into a settlement
328 agreement requiring a defendant to donate to an organization
329 or individual not a party to the litigation, end quotation.

330 I am concerned that the bill's broad and ill-defined
331 prohibition would effectively deter several enforcement
332 agencies from providing general relief in discrimination
333 cases, discourage courts from enforcing these settlements, and
334 invite costly and needless litigation concerning these
335 provisions.

336 And so, accordingly, my amendment would accept payments
337 to remediate generalized harms and settlement agreements in
338 this important category of civil rights cases. And so, I
339 commend this amendment to each and every member of the
340 Judiciary Committee, and urge the adoption of my amendment. I
341 thank the chairman and yield back.

342 Chairman Goodlatte. The chair thanks the gentleman and
343 recognizes himself in opposition to the amendment. I oppose
344 the amendment because it reflects a fundamental
345 misunderstanding of the underlying bill. This amendment would
346 exempt certain discrimination settlements from the bill's ban
347 on third-party payments; but nothing in the underlying bill
348 prevents a victim of discrimination from obtaining relief.

349 The Stop Settlement Slush Funds Act of 2016 explicitly
350 permits remedial payments to third-party victims who were
351 directly and proximately harmed by the defendant's wrongdoing.
352 If there are no such victims, the defendant is not let off the
353 hook. It still must pay, but in the absence of direct victims,
354 the money goes to the Treasury for elected representatives to
355 decide the best way to spend it.

356 The point of this bill is not to affect restitution to
357 victims. It is to address an institutional issue. The bill
358 preserves Congress' spending power, which is its most
359 effective tool for oversight and reigning in executive
360 overreach, no matter which party is in the White House. And
361 accordingly, I urge my colleagues to oppose this amendment.

362 For what purpose does the gentleman from Georgia seek
363 recognition?

364 Mr. Johnson. I move to strike the last word.

365 Chairman Goodlatte. The gentleman is recognized for 5
366 minutes.

367 Mr. Johnson. Thank you, Mr. Chairman. The Conyers
368 amendment I speak in favor of. It exempts settlement
369 agreements in suits concerning discrimination on the basis of
370 race, sex, religion, national origin, age, or disability.
371 Civil rights laws embody some of our nation's most fundamental
372 values, namely, no one should be treated adversely solely on
373 account of their race, sex, religion, national origin, age, or
374 disability. Settlement agreements in particular have been
375 instrumental in enforcing various civil rights statutes in a
376 wide variety of cases, ranging from those involving voting
377 rights to reform of mental health institutions to law
378 enforcement misconduct. Indeed, they are the heart of the
379 civil rights enforcement.

380 By making it substantially more difficult for agencies to
381 enter into settlement agreements regarding civil rights
382 enforcement, this bill effectively undermines Congress'
383 statutory mandates to agencies concerning civil rights,
384 specifically H.R. 5063 precludes payments for remediation of
385 generalized harms and appears to restrict relief only to
386 parties to a civil action. This provision substantially
387 diminishes the ability of civil enforcement agencies to
388 provide general relief in discrimination cases, and would
389 deter agencies from pursuing such relief.

390 I support this amendment. I urge my colleagues to do the
391 same, and I would, though I have not read the lawsuit filed by

392 the Justice Department against the State of North Carolina,
393 its Governor McCrory, and the university system, as well as
394 its law enforcement agencies, I believe that this legislation,
395 without the Conyers amendment, would preclude the
396 effectiveness of that lawsuit, which is in the public eye as
397 we speak. So, with that, I would ask my colleagues to support
398 the Conyers amendment, and I yield back.

399 Chairman Goodlatte. The question occurs on the amendment
400 offered by the gentleman from Michigan, Mr. Conyers.

401 All those in favor, respond by saying aye.

402 Those opposed, no.

403 Chairman Goodlatte. In the opinion of the chair, the
404 yeas have it, and the amendment is not agreed to.

405 Mr. Conyers. Chairman, may I have a recorded vote?

406 Chairman Goodlatte. A recorded vote is requested, and
407 the clerk will call the roll.

408 Ms. Adcock. Mr. Goodlatte?

409 Chairman Goodlatte. No.

410 Ms. Adcock. Mr. Goodlatte votes no.

411 Mr. Sensenbrenner?

412 [No response.]

413 Mr. Smith?

414 Mr. Smith. No.

415 Mr. Chabot?

416 [No response.]

417 Mr. Issa?
418 [No response.]
419 Mr. Forbes?
420 [No response.]
421 Mr. King?
422 [No response.]
423 Mr. Franks?
424 Mr. Franks. No.
425 Mr. Gohmert?
426 Mr. Gohmert. No.
427 Mr. Jordan?
428 Mr. Jordan. No.
429 Mr. Poe?
430 Mr. Poe. No.
431 Mr. Chaffetz?
432 [No response.]
433 Mr. Marino?
434 Mr. Marino. No.
435 Mr. Gowdy?
436 [No response.]
437 Mr. Labrador?
438 Mr. Labrador. No.
439 Mr. Farenthold?
440 [No response.]
441 Mr. Collins?

442 Mr. Collins. No.
443 Mr. DeSantis?
444 [No response.]
445 Ms. Walters?
446 Ms. Walters. No.
447 Ms. Adcock. Ms. Walters votes no.
448 Mr. Buck?
449 [No response.]
450 Mr. Ratcliffe?
451 Mr. Ratcliffe. No.
452 Ms. Adcock. Mr. Ratcliffe votes no.
453 Mr. Trott?
454 Mr. Trott. No.
455 Ms. Adcock. Mr. Trott votes no.
456 Mr. Bishop?
457 Mr. Bishop. No.
458 Ms. Adcock. Mr. Bishop votes no.
459 Mr. Conyers?
460 Mr. Conyers. Aye.
461 Ms. Adcock. Mr. Conyers votes aye.
462 Mr. Nadler?
463 [No response.]
464 Ms. Lofgren?
465 [No response.]
466 Ms. Jackson Lee?

467 Ms. Jackson Lee. Aye.
468 Ms. Adcock. Ms. Jackson Lee votes aye.
469 Mr. Cohen?
470 [No response.]
471 Mr. Johnson?
472 Mr. Johnson. Aye.
473 Ms. Adcock. Mr. Johnson votes aye.
474 Mr. Pierluisi?
475 Mr. Pierluisi. Aye.
476 Ms. Adcock. Mr. Pierluisi votes aye.
477 Ms. Chu?
478 [No response.]
479 Mr. Deutch?
480 [No response.]
481 Mr. Gutierrez?
482 [No response.]
483 Ms. Bass?
484 Ms. Bass. Aye.
485 Ms. Adcock. Ms. Bass votes aye.
486 Mr. Richmond?
487 [No response.]
488 Ms. DelBene?
489 Ms. DelBene. Aye.
490 Ms. Adcock. Ms. DelBene votes aye.
491 Mr. Jeffries?

492 [No response.]
493 Mr. Cicilline?
494 Mr. Cicilline. Aye.
495 Ms. Adcock. Mr. Cicilline votes aye.
496 Mr. Peters?
497 Mr. Peters. Aye.
498 Ms. Adcock. Mr. Peters votes aye.
499 Chairman Goodlatte. The gentleman from Wisconsin?
500 Mr. Sensenbrenner. No.
501 Chairman Goodlatte. The gentleman from Colorado?
502 Mr. Buck. No.
503 Ms. Adcock. Mr. Buck votes no.
504 Chairman Goodlatte. Has every member voted who wishes to
505 vote? The gentleman from New York?
506 Mr. Jeffries. Aye.
507 Ms. Adcock. Mr. Jeffries votes aye.
508 Chairman Goodlatte. The clerk will report.
509 Ms. Adcock. Mr. Chairman, 9 members voted aye, 15 members
510 voted no.
511 Chairman Goodlatte. And the amendment is not agreed to.
512 For what purpose does the gentleman from Michigan, Mr. Bishop,
513 seek recognition?
514 Mr. Bishop. I move to strike the last word.
515 Chairman Goodlatte. The gentleman is recognized for 5
516 minutes.

517 Mr. Bishop. Mr. Chairman, thank you for yielding and
518 taking up this important issue. As we have heard today, in
519 just the last 2 years, this committee has found the DOJ has
520 directed nearly a billion dollars: that is a billion with a B,
521 to non-victim third parties through settlement agreements, and
522 in the process, completely circumventing Congress' spending
523 and oversight authority.

524 Of that \$100 billion, over \$500 million has already been
525 disbursed or committed to being disbursed. In some cases,
526 these mandatory donations provisions reinstate funding
527 Congress specifically cut. Now, I want folks to understand a
528 billion dollars. Mr. Chairman, do you know what the Department
529 of Justice could do, or could have done, with one billion
530 dollars?

531 And I reflect back to the city of Detroit this past
532 weekend, where seven were found dead, 14 were found hurt in
533 violence. New York City, Chicago, Baltimore, Los Angeles;
534 other cities, the violence continues unabated. Rape kits
535 continue to be unprocessed leaving so many victims, thousands
536 of victims behind.

537 All of this requires resources, resources from the
538 Department of Justice to enforce the law. Meanwhile, the
539 Attorney General's office is focusing their attention on such
540 things as my colleague from Georgia has just indicated, which
541 is suing the states, and all the while ignoring their

542 constitutional responsibility and ethical responsibility to
543 enforce the law.

544 I use, for example, in this case, the continuous existence
545 of sanctuary cities, which represent in my opinion and in many
546 opinions of people that I represent, open and defiant violation
547 of the rule of law. The Attorney General's failure to enforce
548 the letter of the law is not only a serious violation of her
549 oath of office and her duty as a prosecutor, as the Chief Law
550 Enforcement Officer, but a blatant failure to ensure equal
551 justice under the law.

552 This is a real problem in this country. My constituents
553 and I know constitutions and citizens around this country have
554 voiced an opinion of outrage as to how the Department of
555 Justice, the Attorney General, the Executive Branch is using
556 their resources, but to me this is just symptomatic of a far
557 bigger problem in the Department of Justice and the Executive
558 Branch, and more than just being good stewards of money
559 settlements, the DOJ is not following article 1.

560 This committee convened today to discuss a fundamentally
561 bipartisan and institutional issue. Congress' spending power
562 is most effective tool for oversight and reigning in the
563 executive overreach. We must defend it. The tail has been
564 wagging the dog for too long. Executive agencies cannot divert
565 funds intended for taxpayers and the U.S. Treasury to fulfill
566 their own personal agendas. This type of blatant disregard

567 for our Constitution is not only an affront to our system of
568 checks and balances, but threatens our democratic process.
569 Mr. Chairman, I yield back.

570 Chairman Goodlatte. For what purpose does the
571 gentlewoman from Texas seek recognition?

572 Ms. Jackson Lee. I have two amendments at the desk, Mr.
573 Chairman, that I would like to take en bloc.

574 Chairman Goodlatte. The clerk will report the
575 amendments, and without objection, they will be considered en
576 bloc.

577 Ms. Adcock. Amendment to the amendment in the nature of
578 a substitute to H.R. 5063, offered by Ms. Jackson Lee. Page
579 1, line 9, insert after settlement agreement the following --

580 [The amendments of Ms. Jackson Lee follows:]

581 ***** INSERT 4 *****

582 Chairman Goodlatte. Without objection, both amendments
583 will be considered as read and considered en bloc, and the
584 gentlewoman is recognized for 5 minutes on her amendments.

585 Ms. Jackson Lee. I thank you very much, Mr. Chairman.
586 Both of these amendments are amendments or issues that I have
587 had firsthand experience with, either as a member of this
588 committee or as an individual who has worked on issues dealing
589 with sexual harassment and violence. And certainly, my
590 community was impacted deeply by the Deepwater Horizon
591 Settlement.

592 In fact, I have spent a lot of time in Louisiana, for
593 example, and with oyster fisherman and wetlands
594 preservationists and others who lived along the coast as far
595 away as my home State of Texas. I know these issues, and I
596 take issue with the concept of a slush fund.

597 And as well, the majority knows that the Democrats and
598 the Justice Department did not have time to review and
599 negotiate changes to the bill prior to the markup. And this
600 is a sweeping bill, because it is, in essence, attempting to
601 deny the reasoned assessment of the Justice Department on who
602 we can help in the right way, how we can actually help and
603 cure actual harm.

604 I want to also make a point that the concern of violating
605 the MRA, the Miscellaneous Receipts Act, is misguided, because
606 settlement agreements that require parties to distribute

607 relief to third parties are not for the government within the
608 meaning of the MRA, and therefore fall outside of the
609 appropriations powers of Congress.

610 But my Amendment One deals with sexual harassment and
611 violence settlement agreements. This bill only exempts
612 payments to parties other than the government to provide
613 restitution for actual harm, directly and approximately caused
614 by the party making the payment.

615 At the subcommittee hearing on this bill, the majority
616 witness, Professor David Uhlmann, testified that the bill
617 would potentially preclude payments requiring monitoring and
618 other payments for generalized harm. The proposed legislation
619 as currently drafted could be construed to preclude all third-
620 party payments in settlement agreements other than
621 restitution.

622 Again, the majority witness specifically testified on
623 behalf of the chamber that the bill should prohibit the U.S.
624 government from entering into a settlement agreement requiring
625 a defendant to donate to an organization or individual, not a
626 party to the litigation. That is wrong.

627 Case examples: this amendment would accept cases where
628 funds are directed to the remediation of generalized harm,
629 other than restitution, to identify victims. Case examples
630 would be impacted by my amendment. Female laundry workers
631 receive \$582,000. The consent decree resolving the case

632 provides that in addition to paying \$582,000, Suffolk Laundry
633 will adopt new procedures to prevent sexual harassment, will
634 train its managers and staff on identifying and preventing
635 sexual harassment, and the policy and staff training will be
636 available in Spanish.

637 EEOC will monitor Suffolk Laundry's compliance with these
638 obligations. These women will now finally receive
639 compensation for the abuse they suffered. We are confident
640 that with the consent decree, they would not be victimized
641 again. Cintas Corporation \$1.5 million to settle EEOC sex
642 discrimination case would also be impacted negatively. And we
643 are confident that the injunctive relief obtained provides a
644 strong foundation for eliminating barriers to recruiting and
645 hiring women.

646 My second amendment, Deepwater Horizon Settlement
647 Agreements, directing payments to States and third parties, in
648 fact, it provides for relief that would provide States to
649 remediate the generalized harm of unlawful conduct beyond
650 harms to identifiable victims.

651 Under the current law, the EPA may include supplemental
652 environmental projects in settlement agreements to offset the
653 harms of unlawful conduct by requiring parties to undertake an
654 environmentally beneficial project or activity that is not
655 required by law. This is crucial to wetlands and coastal
656 areas, and so this broad-based legislation would be unfair,

657 and unfair to many victims.

658 Let me offer into the record and read into the record the
659 very eloquent, pointed, and constitutional statement of our
660 Attorney General regarding discrimination in the case against
661 North Carolina.

662 In her statement she says, "This is not the first time
663 that we have seen discriminatory responses to historic moments
664 of progress for our nation. We saw it in the Jim Crow laws
665 that followed the Emancipation Proclamation. We saw it in the
666 fears and widespread resistance to Brown v. Board of Education.
667 And we saw it in the proliferation of State bans on same-sex
668 unions intended to stifle any hope that gay and lesbian
669 Americans might one day be afforded the right to marry.

670 "That right, of course, is now recognized as a guarantee
671 embedded in our Constitution in the wake of the historic
672 triumph. We have seen bill after bill and State after State
673 taking aim at the LGBT community. Some of these responses
674 reflect a recognizably human fear of the unknown, and a
675 discomfort with the uncertainty of change, but this is not a
676 time to act out of fear."

677 My amendments clarify this legislation to not disallow
678 the Justice Department from providing an actual cure to a harm
679 by utilizing third parties to cure sexual discrimination and
680 environmental major crises, such as Deepwater Horizon, and to
681 be able to allow payments to States as third parties for

682 general remediation of harms. And then also, as it relates to
683 the sexual harassment and violence to exempt them, to remediate
684 the generalized harm of unlawful conduct beyond harms to
685 identifiable victims.

686 I ask my colleagues to support these two amendments en
687 bloc to protect the innocent. I yield back.

688 Chairman Goodlatte. The chair thanks the gentlewoman and
689 recognizes himself in opposition to the amendments en bloc.
690 These amendments would exempt settlements resolving workplace
691 sexual harassment, violence, or discrimination, or providing
692 restitution to a State. But nothing in the underlying bill
693 prevents victims of workplace harassment, violence, or
694 discrimination from obtaining relief or a State from obtaining
695 restitution.

696 The Stop Settlement Slush Funds Act of 2016 explicitly
697 permits remedial payments to third party victims who were
698 directly and proximately harmed by the defendant's wrongdoing.
699 If there are no such victims, State or individuals, the
700 defendant is not let off the hook. The defendant still must
701 pay. But in the absence of direct victims, the money goes to
702 the Treasury for the elected representatives of the people to
703 decide the best way to spend it.

704 The point of this is bill not to affect restitution to
705 victims. It is to address an institutional issue. The bill
706 preserves Congress' spending power, which is its most

707 effective tool for oversight and reining in executive
708 overreach, no matter which party is in the White House.
709 Accordingly, I urge my colleagues to oppose this amendment.
710 The question occurs on the amendments offered en bloc by --
711 Mr. Conyers. Mr. Chairman --
712 Mr. Johnson. Mr. Chairman --
713 Chairman Goodlatte. For what purpose does the gentleman
714 from Georgia seek recognition?
715 Mr. Johnson. I move to strike the last word.
716 Chairman Goodlatte. The gentleman is recognized for 5
717 minutes.
718 Mr. Johnson. Thank you, Mr. Chairman. I speak in support
719 of the Jackson Lee: both Jackson Lee amendments submitted en
720 banc. The first one exempts from the bill any settlement
721 agreements that provide restitution to States, and the second
722 exempts settlement agreements that pertain to payments to
723 indirectly remediate and prevent sexual harassment, violence,
724 or discrimination in the workplace.
725 Attorney General Lynch stated yesterday that the lawsuit
726 that the Justice Department filed against the State of North
727 Carolina was about a great deal more than just bathrooms, she
728 explained. "This is about the dignity and respect we accord
729 our fellow citizens and the laws that we, as a people, and as
730 a country, have enacted to protect them," she said. "Indeed,
731 to protect all of us. And it is about the founding ideals

732 that have led this country haltingly, but inexorably, in the
733 direction of fairness, inclusion, and equality for all
734 Americans," end quote.

735 Mr. Chairman, sex-based discrimination violates title VII
736 of the Civil Rights Act of 1964, which prohibits discrimination
737 in employment on the basis of race, color, sex, religion, or
738 national origin. This form of discrimination, which includes
739 sexual harassment, is a persistent problem in the workplace.
740 And according to the EEOC, more than 41 percent of the
741 discrimination claims filed last year involved charges of sex-
742 based discrimination, while more than 80 percent of the sexual
743 harassment charges were filed by women.

744 For example, EEOC settled a sexual harassment retaliation
745 lawsuit in 2013 against Carrols Corporation, the world's
746 largest Burger King franchise, alleging widespread sexual
747 harassment in the form of obscene propositions, exposure, or
748 touching perpetrated by managers in the majority of the cases.

749 According to the EEOC's complaint, many women, including
750 teenagers, were fired or forced to quit because, quote, "the
751 harassment made their working conditions intolerable." Under
752 the terms of that settlement agreement resolving the
753 corporation of civil liability, Carrols Corporation must pay
754 direct restitution to victims and indirect restitution in the
755 form of measure to increase the employees' awareness of anti-
756 harassment policies, mechanisms for tracking harassment

757 complaints, notice to inform employees of their rights, and
758 other measures, to prevent future unlawful conduct to third
759 parties. H.R. 5063 will restrict the ability of the EEOC and
760 other enforcement agencies from including similar terms in
761 settlement agreements to provide general relief or prevent
762 similar conduct.

763 Also, the first part of the Jackson Lee amendment exempts
764 from the bill payments to States as restitution for generalized
765 harm. As drafted, H.R. 5063 would only allow recovery to
766 States that are parties to a complaint or otherwise directly
767 harmed by unlawful conduct, and would prohibit payments for
768 remediation of generalized or potential harms. Under current
769 law, the Environmental Protection Agency, which includes
770 supplemental environmental projects in settlement agreements
771 to offset the harms of unlawful emissions or discharges by
772 requiring parties to undertake an environmentally-beneficial
773 project or activity. And with that, I will yield to the
774 gentlelady on her amendment.

775 Ms. Jackson Lee. Okay. Let me see if I have enough time
776 left. But let me thank the gentleman very much. He made a
777 very potent point. I thank him for his support. I want to
778 just reemphasize, we are talking about for actual harm. So,
779 you are going to block through this legislation for the Justice
780 Department to be able to utilize dollars dealing with sexual
781 harassment and violence, for actual harm to organizations

782 dealing with monitoring and providing relief for actual harm.
783 These organizations will work closely to prevent this kind of
784 sexual harassment from happening again.

785 And then, of course, my amendment dealing with Deepwater:
786 we personally, in the Gulf region, were engaged with the
787 Deepwater Horizon settlement. This was a painful experience,
788 and besides the loss of life, this provides money to States,
789 to third parties, for general remediation of harms, to
790 Louisiana and other Gulf Coast States. It is an important
791 statement to make. It may be another disaster that is in the
792 Midwest or the West Coast, and this disallowed.

793 And so, I ask my colleagues, think of your own hometown.
794 This legislation will block your own hometown from getting
795 relief or your constituents from getting relief. I ask my
796 colleagues to support my amendment.

797 Mr. Chairman, may I ask unanimous consent to place into
798 the record the statements of Attorney General Lynch on Monday,
799 May 9th?

800 Chairman Goodlatte. Without objection, it will be made
801 a part of the record.

802 [The information follows:]

803 ***** COMMITTEE INSERT *****

804 Ms. Jackson Lee. And may I also place into the record a
805 letter from a Public Citizen, dated May 10th, 2016? And I
806 thank my colleague, Mr. Johnson, for yielding.

807 Chairman Goodlatte. Without objection, the letter from
808 Public Citizen will be made a part of the record.

809 [The information follows:]

810 ***** COMMITTEE INSERT *****

811 Chairman Goodlatte. The time of the gentlewoman has
812 expired. Question is on the amendments en bloc offered by the
813 gentlewoman from Texas, Ms. Jackson Lee?

814 All those in favor, respond by saying aye.

815 Those opposed, no.

816 In the opinion of the chair, the noes have it.

817 A recorded vote is requested and the clerk will call the
818 roll.

819 Ms. Jackson Lee. Thank you.

820 Ms. Adcock. Mr. Goodlatte?

821 Chairman Goodlatte. No.

822 Ms. Adcock. Mr. Goodlatte votes no.

823 Mr. Sensenbrenner?

824 Mr. Sensenbrenner. No.

825 Ms. Adcock. Mr. Sensenbrenner votes no.

826 Mr. Smith?

827 Mr. Smith. No.

828 Ms. Adcock. Mr. Smith votes no.

829 Mr. Chabot?

830 [No response.]

831 Mr. Issa?

832 [No response.]

833 Mr. Forbes?

834 [No response.]

835 Mr. King?

836 [No response.]
837 Mr. Franks?
838 Mr. Franks. No.
839 Ms. Adcock. Mr. Franks votes no.
840 Mr. Gohmert?
841 Mr. Gohmert. No.
842 Ms. Adcock. Mr. Gohmert votes no.
843 Mr. Jordan?
844 Mr. Jordan. No.
845 Ms. Adcock. Mr. Jordan votes no.
846 Mr. Poe?
847 [No response.]
848 Mr. Chaffetz?
849 [No response.]
850 Mr. Marino?
851 Mr. Marino. No.
852 Ms. Adcock. Mr. Marino votes no.
853 Mr. Gowdy?
854 [No response.]
855 Mr. Labrador?
856 Mr. Labrador. No.
857 Ms. Adcock. Mr. Labrador votes no.
858 Mr. Farenthold?
859 [No response.]
860 Mr. Collins?

861 Mr. Collins. No.
862 Ms. Adcock. Mr. Collins votes no.
863 Mr. DeSantis?
864 [No response.]
865 Ms. Walters?
866 [No response.]
867 Mr. Buck?
868 Mr. Buck. No.
869 Ms. Adcock. Mr. Buck votes no.
870 Mr. Ratcliffe?
871 Mr. Ratcliffe. No.
872 Ms. Adcock. Mr. Ratcliffe votes no.
873 Mr. Trott?
874 Mr. Trott. No.
875 Ms. Adcock. Mr. Trott votes no.
876 Mr. Bishop?
877 [No response.]
878 Mr. Conyers?
879 [No response.]
880 Mr. Nadler?
881 [No response.]
882 Ms. Lofgren?
883 [No response.]
884 Ms. Jackson Lee?
885 Ms. Jackson Lee. Aye.

886 Ms. Adcock. Ms. Jackson Lee votes aye.
887 Mr. Cohen?
888 [No response.]
889 Mr. Johnson?
890 Mr. Johnson. Aye.
891 Ms. Adcock. Mr. Johnson votes aye.
892 Mr. Pierluisi?
893 Mr. Pierluisi. Aye.
894 Ms. Adcock. Mr. Pierluisi votes aye.
895 Ms. Chu?
896 [No response.]
897 Mr. Deutch?
898 [No response.]
899 Mr. Gutierrez?
900 [No response.]
901 Ms. Bass?
902 Ms. Bass. Aye.
903 Ms. Adcock. Ms. Bass votes aye.
904 Mr. Richmond?
905 [No response.]
906 Ms. DelBene?
907 Ms. DelBene. Aye.
908 Ms. Adcock. Ms. DelBene votes aye.
909 Mr. Jeffries?
910 [No response.]

911 Mr. Cicilline?
912 Mr. Cicilline. Aye.
913 Ms. Adcock. Mr. Cicilline votes aye.
914 Mr. Peters?
915 [No response.]
916 Chairman Goodlatte. The gentleman from Virginia.
917 Mr. Forbes. No.
918 Ms. Adcock. Mr. Forbes votes no.
919 Chairman Goodlatte. The gentleman from Tennessee.
920 Mr. Cohen. Aye.
921 Ms. Adcock. Mr. Cohen votes aye.
922 Chairman Goodlatte. The gentleman from Michigan.
923 Mr. Bishop. No.
924 Ms. Adcock. Mr. Bishop votes no.
925 Chairman Goodlatte. The gentleman from Florida.
926 Mr. DeSantis. No.
927 Ms. Adcock. Mr. DeSantis votes no.
928 Chairman Goodlatte. The gentlewoman from California.
929 Ms. Walters. No.
930 Ms. Adcock. Ms. Walters votes no.
931 Chairman Goodlatte. Has every member voted who wishes to
932 vote? The clerk will report.
933 Ms. Adcock. Mr. Chairman, 7 members voted aye, 16 members
934 voted no.
935 Chairman Goodlatte. And the amendment is not agreed to.

936 For what purpose does the gentleman from Georgia seek
937 recognition?

938 Mr. Johnson. I have an amendment at the desk.

939 Chairman Goodlatte. The clerk will report the amendment.

940 Ms. Adcock. Amendment to the amendment in the nature of
941 a substitute to H.R. 5063 offered by Mr. Johnson. Page 1,
942 Line 9 --

943 [The amendment of Mr. Johnson follows:]

944 ***** INSERT 5 *****

945 Chairman Goodlatte. Without objection, the amendment is
946 considered as read and the gentleman is recognized for 5
947 minutes on his amendment.

948 Mr. Johnson. Thank you, Mr. Chairman. My amendment would
949 exempt from the bill settlement agreements that resolve the
950 civil liability of private parties under the anti-trust laws.

951 Under current law, the anti-trust agencies may provide
952 for both structural and conduct remedies in settlement
953 agreements to resolve a party's anticompetitive conduct in
954 violation of anti-trust laws. Structural remedies in
955 settlement agreements preserve competition through payments to
956 third parties that are not actually harmed by anticompetitive
957 conduct at the time of a transaction. These remedies typically
958 including requiring a settling party to sell, divest, or
959 license assets or rights to third parties to create new market
960 competitors or strengthen existing competition.

961 The Justice Department Anti-Trust Division noted on its
962 2011 policy guide to merger remedies that, quote, "Structural
963 remedies in many cases can be simple, relatively easy to
964 administer, and sure to preserve competition," end quote. The
965 anti-trust agencies may also seek to preserve and promote
966 competition through conduct remedies that require payments to
967 third parties to resolve a party's anticompetitive conduct or
968 violation of the anti-trust laws.

969 These remedies may including prohibiting discrimination

970 against other competitors who could be potentially or
971 indirectly harmed by the settling party, requiring monitoring
972 and auditing of a settling party to ensure compliance with the
973 settlement agreement or prohibiting retaliation against
974 potential competitors.

975 Important, both types of remedies are grounded in legal
976 and economic principles to preserve and promote competition
977 through indirect remediation of unlawful conduct. As I noted
978 during my opening statement, which will be submitted as part
979 of the record, H.R. 5063 would cause waves of uncertainty and
980 needless litigation by broadly prohibiting payments to third
981 parties that were indirectly harmed by unlawful conduct.

982 I am concerned that if H.R. 5063 becomes law, it would
983 prohibit the anti-trust agencies from performing their
984 statutory missions of promoting competition and preventing
985 anticompetitive transactions. H.R. 5063 lacks any exception
986 for structural remediation of anticompetitive conduct through
987 divestitures or behavioral remediation of unlawful mergers
988 through payments for compliance or transparency programs. In
989 fact, the bill only excludes settlement payments that
990 remediate actual harms that are directly and proximately
991 caused by the unlawful conduct of a settling party.

992 In the context of an anticompetitive transaction, or
993 other violation of the anti-trust laws, this exception would
994 only allow for payments to consumers if the anti-trust agencies

995 could prove, after the fact, that a monopolist raised prices.
996 Likewise, an agency could only enter a settlement agreement
997 directing payments to a third-party business that failed as a
998 result of anticompetitive behavior, which is actually no
999 remedy at all.

1000 Mr. Chairman, preservation of free markets through robust
1001 enforcement of the anti-trust laws is a bipartisan concern. I
1002 urge my colleagues to support my amendment, which underscores
1003 the flawed premise of the underlying bill. And with that, I
1004 will yield back.

1005 Chairman Goodlatte. The chair thanks the gentleman and
1006 recognizes himself in opposition to the amendment, because it
1007 shows a fundamental lack of understanding of the underlying
1008 bill.

1009 This amendment would exempt anti-trust settlements from
1010 the bill's ban on third-party payments, but nothing in the
1011 underlying bill prevents victims of an illegal trust from
1012 obtaining relief. The Stop Settlement Slush Funds Act of 2016
1013 explicitly permits remedial payments to third-party victims
1014 who were directly and proximately harmed by the defendant's
1015 wrongdoing. If there are no such victims, the anti-trust
1016 defendant is not let off the hook. It still must pay, but in
1017 the absence of direct victims, the money goes to the Treasury
1018 for the elected representatives of the people to decide the
1019 best way to spend it.

1020 The point of this bill is not to affect restitution to
1021 victims. It is to address an institutional issue. The bill
1022 preserves Congress' spending power, which is its most
1023 effective tool for oversight and reining in the executive
1024 overreach, no matter which party is in the White House. And
1025 I accordingly urge my colleagues to oppose the amendment. For
1026 what purpose does the gentleman from Rhode Island seek
1027 recognition?

1028 Mr. Cicilline. Mr. Chairman, move to strike the last
1029 word.

1030 Chairman Goodlatte. The gentleman is recognized for 5
1031 minutes.

1032 Mr. Cicilline. Thank you. I rise in support of this
1033 amendment, which is really critical to ensuring that H.R. 5063
1034 does not impair the ability of the anti-trust agencies to
1035 enforce anti-trust laws through settlement agreements.

1036 The Supreme Court has long held that the anti-trust laws
1037 are core to promoting innovation, opportunity, and choice. In
1038 1972, the court observed in *United States v. Topco*, that the
1039 antitrust laws are, quote, "the Magna Carta of free enterprise,
1040 because they are as important to the preserving of economic
1041 freedom and our free enterprise system as the Bill of Rights
1042 is to the protection of our fundamental personal freedoms."

1043 Congress has expressly granted authority to the anti-
1044 trust agencies to prevent anticompetitive transactions through

1045 section 7 of the Clayton Act, which prohibits mergers and
1046 acquisitions when the effect, quote, "may be substantially to
1047 lessen competition or tend to create a monopoly," end quote.
1048 This authority includes the discretion to resolve civil
1049 complaints against parties for anticompetitive conduct that
1050 violates the antitrust laws.

1051 The bill before us, however, would prohibit any civil
1052 settlement agreement, including those resolving violations of
1053 the anti-trust laws, that directs payments to parties that are
1054 not directly and proximately harmed by the unlawful conduct of
1055 the settling party. As others have eloquently argued this
1056 morning during this hearing, this measure, in its current form,
1057 fails to adequately address the fact that generalized harm
1058 arises in civil cases, including civil cases brought under
1059 antitrust laws.

1060 I am concerned that the bill will undermine the efficient
1061 resolution of anti-trust litigation and the deterrence of
1062 anticompetitive transactions and conduct through settlement
1063 agreements. This shortcoming of the bill in its present form
1064 may also result in even less consumer choice, less innovation,
1065 higher costs, and more power in the hands of fewer companies.

1066 Therefore, I really urge my colleagues to support this
1067 amendment, which ensure that H.R. 5063 does not undermine anti-
1068 trust law enforcement efforts intended to promote competition,
1069 and urge my colleagues to support this amendment as well. And

1070 with that, I yield back.

1071 Mr. Marino [Presiding]. I recognize myself for 5 minutes.
1072 The proceeds of any required sale do not go to third parties.
1073 They go to sellers. Conduct remedies do not include monetary
1074 payments. They are, by their nature, conduct only. The bill
1075 does not prohibit these. And I yield back. Does anyone else
1076 wish to speak on the amendment?

1077 Mr. Pierluisi. Yes. I move to strike the last word.

1078 Mr. Marino. The chair recognizes the gentleman from
1079 Puerto Rico, Mr. Pierluisi.

1080 Mr. Pierluisi. I support the amendment, and I yield the
1081 balance of my time to the gentleman from Georgia.

1082 Mr. Johnson. Thank you, dear colleague. The chairman
1083 mentioned that my amendment evidences a misunderstanding of
1084 the bill. But actually, what was suggested is that -- or what
1085 the bill provides for is that any monies that came from a
1086 settlement against a monopolist would go directly to the
1087 Treasury, so that Congress would then have the opportunity to
1088 allocate those funds to address the harm that the Justice
1089 Department filed suit against and won.

1090 So, to think that this Congress, or any Congress, for
1091 that matter, would be in a position to remediate harm that was
1092 found by anticompetitive behavior, I think, is a
1093 misunderstanding of how this bill can be effective.

1094 In fact, it would render these kinds of judgments almost

1095 useless, because what would happen is that -- let's take for
1096 instance this current Congress, which has not done a thing to
1097 address the looming Zika virus crisis that is approaching us
1098 this summer -- it has not done a thing on the opioid issue, as
1099 far as allocating new monies. The president has asked for
1100 supplemental funding to address the opioid abuse crisis in
1101 this country. Congress has done absolutely nothing -- has
1102 done nothing on Flint water crisis in Michigan. It cannot
1103 even pass a budget.

1104 And so, to expect this Congress to remediate a harm from
1105 anticompetitive behavior by allocating resources that were
1106 generated from a Department of Justice lawsuit against the
1107 monopolists is almost ludicrous. And with that, I will yield
1108 back.

1109 Mr. Marino. Does anyone else wish to be recognized?
1110 Seeing none, the question is on the amendment.

1111 Those in favor, say aye.

1112 Those opposed, no. No.

1113 In the opinion of the chair, the noes have it.

1114 Mr. Conyers. I ask for a recorded vote.

1115 Mr. Marino. The amendment is not agreed to. A recorded
1116 vote is asked for. Call the roll, please.

1117 Ms. Adcock. Mr. Goodlatte?

1118 [No response.]

1119 Mr. Sensenbrenner?

1120 Mr. Sensenbrenner. No.
1121 Ms. Adcock. Mr. Sensenbrenner votes no.
1122 Mr. Smith?
1123 [No response.]
1124 Mr. Chabot?
1125 [No response.]
1126 Mr. Issa?
1127 [No response.]
1128 Mr. Forbes?
1129 [No response.]
1130 Mr. King?
1131 [No response.]
1132 Mr. Franks?
1133 Mr. Franks. No.
1134 Ms. Adcock. Mr. Franks votes no.
1135 Mr. Gohmert?
1136 Mr. Gohmert. No.
1137 Ms. Adcock. Mr. Gohmert votes no.
1138 Mr. Jordan?
1139 [No response.]
1140 Mr. Poe?
1141 Mr. Poe. No.
1142 Ms. Adcock. Mr. Poe votes no.
1143 Mr. Chaffetz?
1144 [No response.]

1145 Mr. Marino?
1146 Mr. Marino. No.
1147 Ms. Adcock. Mr. Marino votes no.
1148 Mr. Gowdy?
1149 [No response.]
1150 Mr. Labrador?
1151 Mr. Labrador. No.
1152 Ms. Adcock. Mr. Labrador votes no.
1153 Mr. Farenthold?
1154 [No response.]
1155 Mr. Collins?
1156 Mr. Collins. No.
1157 Ms. Adcock. Mr. Collins votes no.
1158 Mr. DeSantis?
1159 Mr. DeSantis. No.
1160 Ms. Adcock. Mr. DeSantis votes no.
1161 Ms. Walters?
1162 Ms. Walters. No.
1163 Ms. Adcock. Ms. Walters votes no.
1164 Mr. Buck?
1165 Mr. Buck. No.
1166 Ms. Adcock. Mr. Buck votes no.
1167 Mr. Ratcliffe?
1168 Mr. Ratcliffe. No.
1169 Ms. Adcock. Mr. Ratcliffe votes no.

1170 Mr. Trott?
1171 Mr. Trott. No.
1172 Ms. Adcock. Mr. Trott votes no.
1173 Mr. Bishop?
1174 Mr. Bishop. No.
1175 Ms. Adcock. Mr. Bishop votes no.
1176 Mr. Conyers?
1177 [No response.]
1178 Mr. Nadler?
1179 [No response.]
1180 Ms. Lofgren?
1181 [No response.]
1182 Ms. Jackson Lee?
1183 [No response.]
1184 Mr. Cohen?
1185 Mr. Cohen. Soft "not."
1186 Ms. Adcock. What did he say?
1187 Mr. Marino. Soft "not."
1188 Ms. Adcock. Why did he say that?
1189 Mr. Johnson?
1190 Mr. Marino. I love him.
1191 Mr. Johnson. Aye.
1192 Ms. Adcock. Mr. Johnson votes aye.
1193 Mr. Pierluisi?
1194 Mr. Pierluisi. Aye.

1195 Ms. Adcock. Mr. Pierluisi votes aye.
1196 Ms. Chu?
1197 [No response.]
1198 Mr. Deutch?
1199 [No response.]
1200 Mr. Gutierrez?
1201 [No response.]
1202 Ms. Bass?
1203 Ms. Bass. Aye.
1204 Ms. Adcock. Ms. Bass votes aye.
1205 Mr. Richmond?
1206 [No response.]
1207 Ms. DelBene?
1208 Ms. DelBene. Aye.
1209 Ms. Adcock. Ms. DelBene votes aye.
1210 Mr. Jeffries?
1211 Mr. Jeffries. Aye.
1212 Ms. Adcock. Mr. Jeffries votes aye.
1213 Mr. Cicilline?
1214 Mr. Cicilline. Aye.
1215 Ms. Adcock. Mr. Cicilline votes aye.
1216 Mr. Peters?
1217 [No response.]
1218 Mr. Marino. Any members who have not voted who wish to
1219 vote? The gentleman from Virginia.

1220 Chairman Goodlatte. No.

1221 Mr. Marino. The other gentleman from Virginia.

1222 Chairman Goodlatte. No.

1223 Ms. Adcock. Mr. Goodlatte votes no.

1224 Mr. Marino. That is it? Okay. The clerk will report.

1225 Ms. Adcock. Mr. Chairman, 7 members voted aye, 15 members

1226 voted no.

1227 Mr. Marino. The noes have it, and the amendment is not

1228 agreed to. Are there any additional amendments?

1229 Mr. Cicilline. Mr. Chairman?

1230 Mr. Marino. The chair recognizes Mr. Cicilline.

1231 Mr. Cicilline. Mr. Chairman, I have an amendment at the

1232 desk.

1233 Mr. Marino. The clerk will report.

1234 Ms. Adcock. Amendment to the amendment in the nature of

1235 a substitute to H.R. 5063 offered by Mr. Cicilline. Page 1,

1236 Line 9, insert after "Settlement agreement" the following:

1237 "Other than the expected settlement agreement." Page 2, strike

1238 Line 6, and insert the following --

1239 [The amendment Mr. Cicilline follows:]

1240 ***** INSERT 6 *****

1241 Mr. Marino. Okay. The amendment is considered read
1242 without objection. Mr. Cicilline, you are recognized.

1243 Mr. Cicilline. Thank you, Mr. Chairman. My amendment
1244 would exempt settlement agreements intended to strength the
1245 personal privacy of American citizens from the blanket
1246 prohibition in this legislation.

1247 More specifically, it would preserve the ability of civil
1248 enforcement agencies to compel large corporations to adopt
1249 programs to protect consumer data. Under this bill, these
1250 agencies would be prohibited from reaching settlement
1251 agreements that provide payments to non-governmental parties.
1252 It would only exempt payments to provide restitution for actual
1253 harm, quote, "directly and proximately caused by the party
1254 making the payment," end quote.

1255 As a result, H.R. 5063 in its current form would
1256 potentially prohibit payments for required monitoring and
1257 other payments for generalized harm. As Professor David
1258 Uhlmann of the University of Michigan Law School pointed out
1259 during the sub-committee hearing for this bill, it could,
1260 quote, "preclude all third-party payments in settlement
1261 agreements other than restitution to identifiable victims,"
1262 end quote.

1263 This is particularly problematic in the consumer privacy
1264 context, where the harms may be diffuse or systematic -- or
1265 systemic, excuse me -- and where preventing future

infringements is often so important. In such instances, the most appropriate remedy may involve prescribing steps that effectively prevent future misconduct, rather than one that focuses exclusively on addressing previous faults.

For instance, the Federal Trade Commission has used its authority under section 5(a) of the FTC Act to resolve complaints involving unfair or deceptive practices. As a part of settlement agreements for these complaints, the FTC typically requires the offending party to adopt a series of preventative privacy measures. These requirements usually include employee training and monitoring requirements, third-party auditing, regular testing of privacy controls and procedures, and other reasonable steps to maintain data security practices consistent with the underlying settlement. These steps are not frivolous, and the payments involved are not opaque contributions to any so-called "slush funds." To the contrary. These programs are carefully tailored to protect consumer privacy.

Such agreements are an important and substantive component of the toolbox that enforcement agencies have at their disposal. But under the terms of H.R. 5063 in its current form, these programs would likely be prohibited, since they do not provide restitution to an identifiable victim or a party to the litigation.

My amendment would simply ensure that these agreements,

1291 which protect the privacy interests of American consumers, are
1292 not endangered by the bill's vague and broad prohibition on
1293 payments in settlement agreements. I urge my colleagues to
1294 support this amendment and I yield back.

1295 Chairman Goodlatte. The chair recognizes himself in
1296 opposition to the amendment. This amendment would exempt
1297 settlement agreements pertaining to the protection of
1298 Americans' privacy, but nothing in the underlying bill
1299 prevents victims of a privacy invasion from obtaining relief.
1300 The Stop Settlement Slush Funds Act of 2016 explicitly permits
1301 remedial payments to third-party victims who are directly and
1302 proximately harmed by the defendant's wrongdoing.

1303 If there are no such victims, the defendant is not let
1304 off the hook. It still must pay, but in the absence of direct
1305 victims, the money goes to the Treasury for the elected
1306 representatives of the people to decide the best way to spend
1307 it. The point of this bill is not to affect restitution to
1308 victims. It is to address an institutional issue. The bill
1309 preserves Congress' spending power, which is its most
1310 effective tool for oversight and reining in executive
1311 overreach, no matter which party is in the White House. And
1312 accordingly, I urge my colleagues to oppose this amendment.

1313 For what purpose does the gentleman from Georgia seek
1314 recognition?

1315 Mr. Johnson. I move to strike the last word.

1316 Chairman Goodlatte. The gentleman is recognized for 5
1317 minutes.

1318 Mr. Johnson. Thank you, Mr. Chairman. The Cicilline
1319 amendment I support. It exempts from the bill any settlement
1320 agreement concerning privacy protections. With the increasing
1321 opportunities for governmental and private organizations to
1322 obtain, maintain, and disseminate sensitive private
1323 information of citizens, it is critical that we not prevent or
1324 delay enforcement of consumer protection laws designed to
1325 protect Americans' privacy rights.

1326 As Professor David Uhlmann noted during the hearing on
1327 H.R. 5063 that took place two weeks ago, this measure, quote,
1328 "fails to adequately address the fact that generalized harm
1329 arises in civil cases," end quote, including cases brought
1330 under consumer protection laws, such as section 5 of the
1331 Federal Trade Commission Act.

1332 H.R. 5063 only exempts payments to parties other than the
1333 government to provide restitution for actual harm directly and
1334 proximately caused by the party making the payment. Congress
1335 has expressly granted authority to the Federal Trade
1336 Commission, however, to resolve complaints against
1337 corporations for unfair or deceptive acts or practices under
1338 section 5 of the FTC Act.

1339 As part of resolving potential civil liability of
1340 corporations for unlawful conduct, FTC settlement agreements

1341 typically require parties to address generalized harms of
1342 unlawful conduct by adopting a privacy program, employee
1343 training and monitoring requirements, third-party auditing,
1344 regular testing of privacy controls and procedures, and other
1345 reasonable steps to maintain security practices consistent
1346 with the underlying settlement.

1347 The protection of Americans' privacy is not a Democratic
1348 or Republican issue. Indeed, it is one of the few that those
1349 across the political spectrum have long embraced. Yet,
1350 notwithstanding these shared concerns, this bill could impose
1351 burdensome requirements on settlement agreements that are
1352 intended to protect privacy. The amendment corrects this
1353 shortcoming in the bill by including an exception for
1354 settlement agreements that protect the privacy of Americans.
1355 And for that reason, I would ask my colleagues to support the
1356 bill and -- or support this amendment. And with that, I will
1357 yield time to the gentleman from Rhode Island.

1358 Mr. Cicilline. I thank the gentleman for yielding. I
1359 just want to reinforce, in response to the chairman's assertion
1360 that nothing in the legislation prevents an individual from
1361 receiving restitution. That is correct, but that is not what
1362 the amendment is intended to address. The amendment is
1363 intended to address those payments which may be part of a
1364 settlement agreement that are intended to protect the privacy
1365 interests more broadly, things like employee training and

1366 monitoring requirements, third-party auditing, regular testing
1367 of privacy controls and procedures, and other reasonable steps
1368 to maintain data security practices consistent with the
1369 underlying settlement.

1370 They would, in fact, be prohibited under the legislation
1371 in its current form. So, it can provide a remedy to an
1372 individual who has been harmed. But very often, settlement
1373 agreements that involve issues of privacy, and of consumer
1374 privacy in particular, are intended to also prevent further,
1375 or additional, or future infringements of that privacy. And
1376 those mechanisms would be prohibited, or payments for those
1377 actions would be prohibited under this bill.

1378 So, it is not that an individual whose privacy rights
1379 were violated would not be able to get restitution. It is the
1380 effect of a broader settlement that would prevent that in the
1381 future, so that we could protect the privacy interests of
1382 Americans broadly -- would be prohibited in the amendment. It
1383 is intended to remedy that portion.

1384 Chairman Goodlatte. Would the gentleman from Georgia
1385 yield?

1386 Mr. Johnson. I would.

1387 Chairman Goodlatte. I appreciate the gentleman yielding.
1388 I just want to say in response to the gentleman from Rhode
1389 Island that the language in the amendment in the nature of a
1390 substitute, that is before the committee. The language is

1391 very clear that the types of payments that he is referring to
1392 are permitted. In subsection A, the last line says, "Payment
1393 for services rendered in connection with the case," which would
1394 include the types of training programs and other monitoring
1395 services that the gentleman made reference to.

1396 This amendment is not necessary and goes beyond the scope
1397 of what the gentleman describes as the reason for the
1398 amendment. And therefore, I must oppose it.

1399 Mr. Cicilline. Will the chairman yield? I believe that
1400 -- oh, I am sorry.

1401 Mr. Johnson. Yes, I yield.

1402 Mr. Cicilline. That language refers to the costs
1403 associated with the litigation, not with the settlement. So,
1404 I think, with all due respect, Mr. Chairman, that constitutes
1405 -- payment for services rendered in connection with the case
1406 refers to litigation costs, not costs that are part of a
1407 settlement agreement in terms of services or procedures that
1408 need to be put in place. So, with all due respect, I do not
1409 think that the draft, in fact, allows that.

1410 Chairman Goodlatte. I think the language is plain, and
1411 we will have to disagree on that point. But I thank the
1412 gentleman.

1413 Mr. Johnson. With that, I yield back.

1414 Chairman Goodlatte. The question occurs on the amendment
1415 offered by the gentleman from Rhode Island.

1416 All those in favor, respond by saying aye.
1417 Those opposed, no.
1418 Opinion of the chair the noes have it.
1419 Mr. Cicilline. Can I ask for a recorded vote?
1420 Chairman Goodlatte. A recorded vote is correct --
1421 requested, and the clerk will call the roll.
1422 Ms. Adcock. Mr. Goodlatte?
1423 Chairman Goodlatte. No.
1424 Ms. Adcock. Mr. Goodlatte votes no.
1425 Mr. Sensenbrenner?
1426 Mr. Sensenbrenner. No.
1427 Ms. Adcock. Mr. Sensenbrenner votes no.
1428 Mr. Smith?
1429 [No response.]
1430 Mr. Chabot?
1431 [No response.]
1432 Mr. Issa?
1433 [No response.]
1434 Mr. Forbes?
1435 Mr. Forbes. No.
1436 Ms. Adcock. Mr. Forbes votes no.
1437 Mr. King?
1438 [No response.]
1439 Mr. Franks?
1440 Mr. Franks. No.

1441 Ms. Adcock. Mr. Franks votes no.
1442 Mr. Gohmert?
1443 Mr. Gohmert. No.
1444 Ms. Adcock. Mr. Gohmert votes no.
1445 Mr. Jordan?
1446 [No response.]
1447 Mr. Poe?
1448 [No response.]
1449 Mr. Chaffetz?
1450 [No response.]
1451 Mr. Marino?
1452 Mr. Marino. No.
1453 Ms. Adcock. Mr. Marino votes no.
1454 Mr. Gowdy?
1455 [No response.]
1456 Mr. Labrador?
1457 [No response.]
1458 Mr. Farenthold?
1459 [No response.]
1460 Mr. Collins?
1461 Mr. Collins. No.
1462 Ms. Adcock. Mr. Collins votes no.
1463 Mr. DeSantis?
1464 Mr. DeSantis. No.
1465 Ms. Adcock. Mr. DeSantis votes no.

1466 Ms. Walters?
1467 Ms. Walters. No.
1468 Ms. Adcock. Ms. Walters votes no.
1469 Mr. Buck?
1470 Mr. Buck. No.
1471 Ms. Adcock. Mr. Buck votes no.
1472 Mr. Ratcliffe?
1473 Mr. Ratcliffe. No.
1474 Ms. Adcock. Mr. Ratcliffe votes no.
1475 Mr. Trott?
1476 Mr. Trott. No.
1477 Ms. Adcock. Mr. Trott votes no.
1478 Mr. Bishop?
1479 Mr. Bishop. No.
1480 Ms. Adcock. Mr. Bishop votes no.
1481 Mr. Conyers?
1482 [No response.]
1483 Mr. Nadler?
1484 [No response.]
1485 Ms. Lofgren?
1486 [No response.]
1487 Ms. Jackson Lee?
1488 [No response.]
1489 Mr. Cohen?
1490 [No response.]

1491 Mr. Johnson?
1492 Mr. Johnson. Aye.
1493 Ms. Adcock. Mr. Johnson votes aye.
1494 Mr. Pierluisi?
1495 Mr. Pierluisi. Aye.
1496 Ms. Adcock. Mr. Pierluisi votes aye.
1497 Ms. Chu?
1498 [No response.]
1499 Mr. Deutch?
1500 [No response.]
1501 Mr. Gutierrez?
1502 [No response.]
1503 Ms. Bass?
1504 [No response.]
1505 Mr. Richmond?
1506 [No response.]
1507 Ms. DelBene?
1508 Ms. DelBene. Aye.
1509 Ms. Adcock. Ms. DelBene votes aye.
1510 Mr. Jeffries?
1511 Mr. Jeffries. Aye.
1512 Ms. Adcock. Mr. Jeffries votes aye.
1513 Mr. Cicilline?
1514 Mr. Cicilline. Aye.
1515 Ms. Adcock. Mr. Cicilline votes aye.

1516 Mr. Peters?

1517 Mr. Peters. Aye.

1518 Ms. Adcock. Mr. Peters votes aye.

1519 Chairman Goodlatte. The gentleman from Texas, Mr. Poe.

1520 Mr. Poe. No.

1521 Ms. Adcock. Mr. Poe votes no.

1522 Chairman Goodlatte. The gentleman from Idaho.

1523 Mr. Labrador. No.

1524 Ms. Adcock. Mr. Labrador votes no.

1525 Chairman Goodlatte. Has every member voted who wishes to
1526 vote? The clerk will report.

1527 Ms. Adcock. Mr. Chairman, 6 members voted aye, 15 members
1528 voted no.

1529 Chairman Goodlatte. And the amendment is not agreed to.

1530 Are there further amendments to the amendment in the
1531 nature of a substitute?

1532 The question is on the amendment in the nature of a
1533 substitute to H.R. 5063.

1534 Those in favor, respond by saying aye.

1535 Those opposed, no.

1536 In the opinion of the chair, the ayes have it and the
1537 amendment is agreed to.

1538 Mr. Johnson. Mr. Chairman -- I will yield back.

1539 Chairman Goodlatte. A reporting quorum being present,
1540 the question is on the motion to report the bill H.R. 5063, as

1541 amended, favorably to the House.

1542 Those in favor, respond by saying aye.

1543 Opposed, no.

1544 The ayes have it and the bill as amended is ordered
1545 reported favorably.

1546 Mr. Johnson. I would ask for a recorded vote.

1547 Chairman Goodlatte. A recorded vote is requested, and
1548 the clerk will call the roll.

1549 Ms. Adcock. Mr. Goodlatte?

1550 Chairman Goodlatte. Aye.

1551 Ms. Adcock. Mr. Goodlatte votes aye.

1552 Mr. Sensenbrenner?

1553 Mr. Sensenbrenner. Aye.

1554 Ms. Adcock. Mr. Sensenbrenner votes aye.

1555 Mr. Smith?

1556 [No response.]

1557 Mr. Chabot?

1558 [No response.]

1559 Mr. Issa?

1560 [No response.]

1561 Mr. Forbes?

1562 Mr. Forbes. Aye.

1563 Ms. Adcock. Mr. Forbes votes aye.

1564 Mr. King?

1565 [No response.]

1566 Mr. Franks?
1567 Mr. Franks. Aye.
1568 Ms. Adcock. Mr. Franks votes aye.
1569 Mr. Gohmert?
1570 Mr. Gohmert. Aye.
1571 Ms. Adcock. Mr. Gohmert votes aye.
1572 Mr. Jordan?
1573 [No response.]
1574 Mr. Poe?
1575 Mr. Poe. Yes.
1576 Ms. Adcock. Mr. Poe votes yes.
1577 Mr. Chaffetz?
1578 [No response.]
1579 Mr. Marino?
1580 Mr. Marino. Yes.
1581 Ms. Adcock. Mr. Marino votes yes.
1582 Mr. Gowdy?
1583 [No response.]
1584 Mr. Labrador?
1585 Mr. Labrador. Yes.
1586 Ms. Adcock. Mr. Labrador votes yes.
1587 Mr. Farenthold?
1588 [No response.]
1589 Mr. Collins?
1590 Mr. Collins. Aye.

1591 Ms. Adcock. Mr. Collins votes aye.
1592 Mr. DeSantis?
1593 Mr. DeSantis. Aye.
1594 Ms. Adcock. Mr. DeSantis votes aye.
1595 Ms. Walters?
1596 Ms. Walters. Aye.
1597 Ms. Adcock. Ms. Walters votes aye.
1598 Mr. Buck?
1599 Mr. Buck. Aye.
1600 Ms. Adcock. Mr. Buck votes aye.
1601 Mr. Ratcliffe?
1602 Mr. Ratcliffe. Yes.
1603 Ms. Adcock. Mr. Ratcliffe votes yes.
1604 Mr. Trott?
1605 Mr. Trott. Yes.
1606 Ms. Adcock. Mr. Trott votes yes.
1607 Mr. Bishop?
1608 Mr. Bishop. Yes.
1609 Ms. Adcock. Mr. Bishop votes yes.
1610 Mr. Conyers?
1611 [No response.]
1612 Mr. Nadler?
1613 [No response.]
1614 Ms. Lofgren?
1615 [No response.]

1616 Ms. Jackson Lee?
1617 [No response.]
1618 Mr. Cohen?
1619 [No response.]
1620 Mr. Johnson?
1621 Mr. Johnson. No.
1622 Ms. Adcock. Mr. Johnson votes no.
1623 Mr. Pierluisi?
1624 Mr. Pierluisi. No.
1625 Ms. Adcock. Mr. Pierluisi votes no.
1626 Ms. Chu?
1627 Ms. Chu. No.
1628 Ms. Adcock. Ms. Chu votes no.
1629 Mr. Deutch?
1630 [No response.]
1631 Mr. Gutierrez?
1632 [No response.]
1633 Ms. Bass?
1634 [No response.]
1635 Mr. Richmond?
1636 [No response.]
1637 Ms. DelBene?
1638 Ms. DelBene. No.
1639 Ms. Adcock. Ms. DelBene votes no.
1640 Mr. Jeffries?

1641 Mr. Jeffries. No.

1642 Ms. Adcock. Mr. Jeffries votes no.

1643 Mr. Cicilline?

1644 Mr. Cicilline. No.

1645 Ms. Adcock. Mr. Cicilline votes no.

1646 Mr. Peters?

1647 Mr. Peters. Aye.

1648 Ms. Adcock. Mr. Peters votes aye.

1649 Chairman Goodlatte. The gentleman from Utah.

1650 Mr. Chaffetz. Aye.

1651 Ms. Adcock. Mr. Chaffetz votes aye.

1652 Chairman Goodlatte. The gentleman from California.

1653 Mr. Issa. Aye.

1654 Ms. Adcock. Mr. Issa votes aye.

1655 Chairman Goodlatte. Has every member voted who wishes to

1656 vote? The clerk will report.

1657 Ms. Adcock. Mr. Chairman, 18 members voted aye, 6 members

1658 voted no.

1659 Chairman Goodlatte. The ayes have it, and the bill, as

1660 amended, is ordered reported favorably to the House. Members

1661 will have 2 days to submit views. And without objection, the

1662 bill will be reported as a single amendment in the nature of

1663 a substitute, incorporating all adopted amendments, and staff

1664 is authorized to make technical and conforming changes.

1665 This concludes our business for today. I thank all the

1666 members who have remained, and markup is adjourned.

1667 [Whereupon, at 11:50 a.m., the committee adjourned

1668 subject to the call of the chair.]